

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
AUGUSTA DIVISION

JAIMERE PROSSER,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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CV 115-067  
CR 109-073

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**O R D E R**

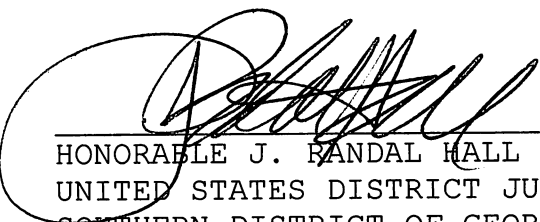
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Presently before the Court is Petitioner Prosser's motion to vacate. (Doc. 7.) On December 28, 2014, Petitioner filed a Rule 60(b) motion. (Doc. 2.) In response, the Court entered an Order informing petitioner that a Rule 60(b) motion was not a proper vehicle for relief in his case. (Doc. 440.) Accordingly, the Court noted that it intended to recharacterize the motion as a 28 U.S.C. § 2255 motion and gave Petitioner thirty days from the date of the Order to contest the recharacterization, withdraw the motion, or amend the motion. When petitioner did not respond, the Court recharacterized petitioner's motion as a § 2255 motion. (Doc. 1.) The Court

subsequently adopted the Magistrate Judge's report and recommendation denying the § 2255 motion as untimely. (Docs. 3, 5.)

Petitioner has now moved the Court to vacate these Orders because he claims he did not receive notice of the Order recharacterizing his original motion until September 2015. And Petitioner claims that, had he received this notice, he would have timely withdrawn his motion. Although the Court questions the result vacating the Orders will have, it nonetheless **GRANTS** Petitioner's request. The Court's Orders recharacterizing Petitioner's motion (doc. 1) and denying the recharacterized motion (docs. 3, 5) are **VACATED**. The Court, therefore, will consider Petitioner's original motion (doc. 440) **WITHDRAWN**. Furthermore, Petitioner has since filed a second motion on this issue (doc. 474), which indicates that he requests a hearing on this issue. To the extent that Petitioner requests a hearing on this issue, his request is **DENIED**.

**ORDER ENTERED** at Augusta, Georgia this 14<sup>th</sup> day of April, 2016.



HONORABLE J. RANDAL HALL  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF GEORGIA